

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6268 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

GUJARAT RAJYA JAHAR BANDHKAM MAJOOR MANDAL

Versus

EXECUTIVE ENGINEER

Appearance:

MRS DT SHAH for Petitioner

Mr. D.A.Bambhania, Govt.Solicitors for Respondent

No. 1.

Mr. B.Y.Mankad,AGP, for Respondent No. 2 & 3.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 11/03/98

ORAL JUDGEMENT

Rule. Mr. Bambhania for respondent No.1 and Mr. Mankad, AGP for respondents Nos. 2 and 3 waive service of the Rule. At the request of the learned Advocates, this petition is taken up for final hearing to-day.

Petitioner No.2 and other 84 employees, who are

the members of petitioner No.1-Union filed Recovery Applications Nos. 135135/93 to 219/93 claiming medical allowance, which applications were allowed by common award dated 26-9-95 passed by the Labour Court, Surendranagar.

Respondent No.1 and the Secretary, Roads and Building Department, challenged the said award by filing petitions in this Court being Special Civil Application No.2351/94 and 3091 to 3174 of 1994. This Court (Coram: S.K.Keshote,J) dismissed all the petitions by common judgment and order dated 5-2-98. It is pertinent to note that while dismissing the petitions, this Court has observed as under:

"12. Before parting with the judgment I consider it proper to state that the filing of this petition by the State Government in these matters is nothing but waste of public money in the litigation. Identical claim by daily wagers of the medical allowance has been accepted by the same Labour Court thrice and that decision has been challenged by the petitioners before this Court. Those special civil applications had been dismissed by this Court and the matter was carried in appeal before the Supreme Court. The Supreme Court has also confirmed the decision of this Court on 3-11-1995. So when this claim of daily wagers has been confirmed by the apex Court I fail to see how the Legal Department has opined for filing of this special civil application. These matters are taken casually. Otherwise, after the decision of this Court and the Supreme Court in identical matters, there may not be any justification for filing of these special civil applications more so when the same pertains to low paid employees."

After observing as above, this Court, while dismissing the petitions, directed the respondents herein to pay an amount of Rs.5500/- by way of costs of the litigation towards professional fees of the counsel who appeared on behalf of the workmen.

In pursuance of th above, the petitioners and other 84 employees filed Recovery Application No.490/95 under Section 33-C(1) of the ID Act for issuance of Recovery Certificate, which was allowed on 28-4-97 by the Labour Court, Surendranagar and a common Recovery Certificate for an amount of Rs. 1,93,375/- was issued on

12-5-97 and the same was sent to the Collector, Surendranagar. The Collector, Surendranagar in turn sent the said Recovery Certificate to the Mamlatdar, Wadhwan for execution and implimentation. However, the fact remains that till date the amount has not been recovered from respondent No.1. In view of the fact that this Court has already dismissed the petitions challenging the award passed by the Labour Court in Recovery Applications, respondent No.1 is not justified in withholding the amount of the employees of the first petitioner.

In the result, this petition is allowed. Respondent No.1 is directed to deposit an amount of Rs.1,93,375/- awarded under the aforesaid award with the the Labour Court, Surendranagar within four weeks from the date of receipt of the writ of this Court. The Labour Court, Surendranagar in turn is directed to disburse the amount to the concerned workmen after proper verification and in presence of the learned Advocate for the petitioners. The first respondent is further directed to issue an Account Payee Cheque for an amount of Rs.5500/- in the name of Mrs. D.T.Shah being the amount of costs as directed by this Court while disposing of Special Civil Application No.2351/97 and other allied matters within four weeks from to-day. Office to issue writs to the Labour Court, Surendranagar as well as to the first respondent forthwith. Rule is made absolute to the aforesaid extent with no order as to costs.

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